



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

MAY 27, 2008

PRESENT: Acevedo, Koepp-Baker, Davenport, Lyle, Mueller, Tanda

ABSENT: Escobar

LATE: None

STAFF: Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, Senior Planner (SP) Linder, Senior Civil Engineer (SCE) Creer, and Minutes Clerk Johnson. (Also present, for Item 11) Traffic Consultants Jason Nesdahl and Sohrab Rashid of Fehr & Peers Associates Inc., 160 W San Carlos, #675, San Jose.

*In the absence of Commissioner Escobar, Commissioner Koepp-Baker assumed the Chair.*

Chair Koepp-Baker called the meeting to order at 7:01 p.m., inviting all present to join in pledge of allegiance to the U.S. flag.

#### **DECLARATION OF POSTING OF AGENDA**

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Koepp-Baker opened the public hearing.

With no one present indicating a wish to address matters not appearing on the agenda, the public hearing was closed.

# PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 2

## PUBLIC HEARINGS:

### 1) DAA-04-05B: BARRETT- ODISHOO

A request for amendment to the project development agreement extending the commencement of construction date 7 months, and extending other performance dates by 12 months. The Odishoo project known as Villas of San Marcos is located on the southwest corner of the intersection of Barrett Ave. and San Ramon Dr.

SP Linder gave the staff report, noting this request would grant an amendment to an approved development agreement to allow for an exception to the loss of five building allotments awarded for fy 2007-08. She noted that Phase I of this project had been completed, including the 18-units and majority of the project park along Butterfield. "However, with the down turn in the real estate market at the present time," SP Linder said, "Phase II of the project has not yet been funded. The additional five units require adjustment for 2009 in order to extend commence construction." She reminded that in April 2008, the City Council had considered requests for Exception to the Loss of Building Allocations (ELBA) and this action by the Planning Commission would formally incorporate the Council's action into the project agreement and extend the development schedule by moving the dates closer to the commence construction dates. SP Linder also noted that the project has completed the 'master plan check process' which make it much easier to obtain and commence on future building permits. Calling attention to the table in the distributed staff report, SP Linder noted the date changes listed, including Building Permits (obtain/submittal) for the 13units for fy 2008-09 to March 30, 2009 and January 30 respectively, with those dates being carried throughout the Resolutions as well. SP Linder further noted the applicant has been diligent in attempting to meet the current schedule, and again citing the market down-turn as justification for the request.

Chair Koepp-Baker opened, and then closed, the public hearing as there were none in attendance indicating a wish to speak to the matter.

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-04-05 B: BARRETT-ODISHOO (VILLAS OF SAN MARCOS) FOR APPLICATIONS MP- 02-22 AND MC-04-13 TO ALLOW FOR A 7-MONTH EXTENSION OF TIME FOR COMMENCEMENT OF CONSTRUCTION AND 4 – 12 MONTHS EXTENSION OF PERFORMANCES DATES FOR ALLOCATIONS AWARDED FOR THE FISCAL YEAR 2007-08 & FY 2008-09, WITH THE FOLLOWING MODIFICATIONS:**

**Final map submittal**

**FY 2007-08 (5 units) ~~July 30, 2007~~ July 30, 2008**

**Building permit submittal**

**FY 2007-08 (5 units) ~~August 15, 2007~~ 2008**

**FY 2008-09 (13 units) ~~August 15, 2008~~ January 30, 2009**

**Obtain Building permits**

**FY 2007-08 (5 units) ~~September 30, 2007~~ 2008**

**FY 2008-09 (13 units) ~~September 30, 2008~~ March 30, 2009**

PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 3

Commence Construction

FY 2007-08 (5 units) ~~April 30, 2008~~ November 30, 2008

NOTING THE INCLUSION OF THE FINDINGS AND CONDITIONS OF THE RESOLUTION, COMMISSIONER DAVENPORT PROVIDED THE SECOND TO THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.

2) DAA 05-10B/ DSA 07-20B: BARRETT-SYNCON HOMES

A request to amend the project development agreement and development schedule for the Lone Oak project located on the northwest corner of the intersection of Barrett Ave. and San Ramon Dr. The amendments would extend all of the commencement of construction dates by 12 months and the development schedule dates by 12 months.

SP Linder presented the staff report, noting this project is currently under construction and has an existing commence construction date of June 1, 2008. "However, with the current housing market down-turn, the lender will not fund additional monies until the units under construction are sold, so the applicant can't move ahead presently," SP Linder explained. Providing an overview of the project, SP Linder detailed the request wherein the applicant is asking for a full one-year extension with the development schedule changed as follows:

FY 2007-08 allocations ~~June 30, 2008~~ June 30, 2009 (6 units)  
FY 2008-09 allocations ~~April 30, 2009~~ June 30, 2010 (5 units)  
FY 2009-10 allocations ~~April 30, 2010~~ June 30, 2010 (14 units)

SP Linder explained that in working with the applicant, staff has developed a recommendation for an amendment (due to ELBA) to the development schedule in a 'bundling effect'/tightening of dates, as follows:

Final map submittal

FY 2009-10 ~~02-01-09~~ 01-30-10 (14 units)

Building permits submittal

FY 2009-10 ~~06-30-09~~ 02-28-10 (14 units)

Obtain building permits

FY 2007-08 ~~06-01-08~~ 04-30-09 (13 units)

FY 2008-09 ~~02-01-09~~ 04-30-10 (5 units)

FY 2009-10 ~~09-01-09~~ 04-30-10 (14 units)

and

amendment to the development agreement:

Commence Construction

FY 2007-08 ~~06-30-08~~ 06-30-09 (13 units)

FY 2008-09 ~~04-30-09~~ 06-30-10 (5 units)

FY 2009-10 ~~04-30-10~~ 06-30-10 (14 units)

**PLANNING COMMISSION MEETING MINUTES**

**MAY 27, 2008**

**PAGE 4**

SP Linder also referenced the language of the Resolutions:

**(1) Exhibit B, deletion of the mid three sentences in the first paragraph and the 7<sup>th</sup> whereas: ... FY 2007-08 ~~10~~ 11 months; 2008-09 ~~14~~ 15 months; 2009-10 ~~7~~ 8 months....**

**(2): Exhibit A, deletion of the mid three sentences in the first paragraph Building permit submittal ~~2~~ 1 month beyond filing date so recommending**

Commissioner Davenport led discussion for clarification of the time sequences. SP Linder said the developer would basically have the ability to 'catch-up' with the bundling process. She also explained the 'commence construction' issues. Commissioner Davenport asked about the probability of having spread the project out more if the dates were scheduled more tightly with SP Linder responding that an extension of the development schedule and/or the development agreement might be required if the economic downturn continues.

Chair Koepp-Baker opened, and then closed, the public hearing as there were none in attendance indicating a wish to speak to the matter.

**COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS, TOGETHER WITH THE MODIFICATIONS IDENTIFIED DURING THE STAFF REPORT – INCLUDING THOSE MODIFICATIONS TO EXHIBIT B - RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT FOR APPLICATION DAA-05-10: BARRETT-SYNCON HOMES FOR APPLICATION MC-04-21: BARRETT-SYNCON HOMES TO ALLOW FOR 12 AND 14-MONTH EXTENSION OF TIME FOR COMMENCEMENT OF CONSTRUCTION DATES FOR ALLOCATIONS AWARDED FOR THE FISCAL YEAR 2007- 2008-09, AND FY 2009-10, RESPECTIVELY. COMMISSIONER DAVENPORT PROVIDED THE SECOND TO THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MC-04-21: BARRETT-SYNCON HOMES, INCLUDING THE MODIFICATIONS FOR DATES AS NOTED IN THE STAFF REPORT FOR EXHIBIT A. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

*Noting the potential for conflict of interest as he lives in one of the developments listed within the next agenda item, Commissioner Lyle announced he was being secluded and left the meeting room at 7:15 p.m.*

## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 5

3) DAA-04-08/ DAA-05-01/  
DAA-05-02/  
DSA-07-03/  
DAA-05-04/  
DAA-05-07:  
MODERATE RATE  
UNITS-DIVIDEND

A request to amend the development agreements for the Alicante, Capriano, Mission Ranch, San Savigno and Mallorca projects. The specific amendment request is to insert language into the development agreements allowing for each project to participate in the Council policy for “Guidelines for Replacement Moderate Units” allowing for the trading of moderate rate units between projects. Also requested is an amendment to the development agreement and development schedule for the 92-unit Alicante Estates project located north of Peet Road and east of Cochrane Road.

SP Linder presented the staff report, listing the five project development agreements which are to be considered for trading moderate rate units between the projects. SP Linder also noted the request for an amendment to the development agreement and development schedule for the 92 unit Alicante Estates project, which would finalize 36 units of phases 3b, 4 and 5 within the project. Extension dates for the commencement of construction by 8 months for phase 3b (FY 2006-07), 15 months for Phase 4 (FY 2007-08) and 12 months for the FY 2008-09 allocations. Providing background data, SP Linder reminded that the City Council had, in February 2008, approved a set of guidelines for allowing trading of moderate rate units between projects to allow for flexibility between projects to give and receive moderate rate units so the moderate units in higher end projects are not quickly sold for profit. SP Linder noted that the ‘trade language’ clarifies the ability within of each of the development agreements for ‘trading protocol’. She stressed the matter under discussion does not provide agreement nor approval of trades, but is for clarification of the process.

Turning to the request for extension of time for Alicante Estates, SP Linder referenced the applicant’s letter of explanation due to the current turn down in the housing market and the disinclination of the lender to fund more than eight units at a time. SP Linder then detailed the amendments recommended to the development schedule and the development agreement (page 3 ~ staff report). SP Linder noted, that is an earlier agenda item, the revisions to the Resolution needed, to wit:

**(1) Exhibit B, deletion of the (mid) three sentences in the first paragraph**

**(2): Final map submittal (18 units) ~~January 13, 2006~~, January 30, 2009; (6 units) ~~January 13, 2006~~ January 30, 2010; (12 units) ~~January 13, 2006~~ January 30, 2010.**

**{bottom paragraph): physical commencement on 50% of the ~~3~~ 18**

[Dates changes/corrections within the staff report {but correct in the Resolutions} were noted]

Responding to a question, SP Linder said the Planning Commission would use the procedural guideline outlined in the City Council adopted policy for making trades such as those requested, which are then administratively processed.

Commissioner Tanda initiated discussion on the purchase and ~~sequential~~ **subsequent** sales of moderate priced homes. Commissioner Mueller explained the process whereby purchasers can buy at a reduced {set} rate then sell the non-deed restriction units. “These are moderate rate units; unlike BMRs, these units are substantially higher in price so it does provide a good chance for ‘flipping’ . Commissioner Tanda asked for further clarification as to the moderate rate and market rate selling

## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 6

procedures.

Chair Koepp-Baker opened the public hearing.

Applicant Dick Oliver, 385 Woodview Ave., #100, spoke to the Commissioners regarding:

- date corrections to the table (page 3; staff report): building permit submittal ~~02/30/09~~ 2- 28- 09
- detailed explanation of Alicante {project} commitment to 10% moderate units (selling price: \$725, 000 with some buyers through the process of 'double escrowing' realizing a \$60,000 profit almost immediately; by stopping that process through the proposed trade agreement, the developer's commitment that the moderate units will have a price differential {included in the City adopted policy} makes this proposal more than just a trade mechanism
- the square footage requirements for the trade will remain constant
- market can't be predicted, so there might have been the possibility of duplexes (either moderate-rate or BMRs in Alicante) could have built unit that could have been flipped (This was an issue/question raised by Commissioner Tanda)
- within the trade parameters, efforts will be made to avoid 'odd ball situations' on the smaller lots, helping to avoid concerns of 'future flipping', as the smaller lots generally promote smaller projects which can be more conducive to moderate rate dwellings

Pete Ohlor, 18321 Tolusa Ct. addressed the Commissioners, saying he lives in a house in the Mission Ranch development 'with a nice field outside'. "I'm afraid that we may wind up with all BMRs at that location {the field}," Mr. Ohlor said. Commissioner Mueller reminded that the discussion was not centered on BMRs but on moderate rate housing. Mr. Ohlor asked about comparable sales in the area, asking, "What are they compared to?" Commissioner Mueller explained the process of the trade, indicating that non-deed-restricted units will be taken by the receiving projects. "This will not change the moderate rate houses selling price. That was set originally."

Commissioner Acevedo reminded the action(s) being requested was for clarification and was not a commitment to have trades completed.

SP Linder further clarified that the proposed language for the development agreement did not mean approval for the trades at this time.

Ashley Duncombe, 18310 Tolusa Ct. told the Commissioners he had been a long-time resident of Mission Ranch and was present to address the placement of housing units in the various subdivisions where Mr. Oliver works with the developers. Mr. Duncombe talked about the design for Alicante, saying both BMRs and moderate housing units are accounted for there. Mr. Duncombe went on to say, "As we are reading the language for trading moderate rate homes, I would say I do not want any more near me at Mission Ranch, and a lot of other residents have the same concern."

**PLANNING COMMISSION MEETING MINUTES**

**MAY 27, 2008**

**PAGE 7**

Mr. Oliver returned to the podium to say he appreciated the concerns the of Mission Ranch residents. "I do want to clarify," he said, "that the requested action would allow us to move moderate income, unrestricted units from Mission Ranch not into Mission Ranch as is one of our more expensive developments."

With no others in the audience indicating a wish to speak to the matter, the public hearing was closed.

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENCING APPROVAL OF DEVELOPMENT AGREEMENT FOR APPLICATION DAA-05-02C: COCHRANE – LUPINE FOR AN EXTENSION OF THE COMMENCE CONSTRUCTION DATE BY 8 TO 15 MONTHS FOR THE FY 2006-07, 2007-08 AND FY 2008-09, INCLUSIVE OF THE FINDINGS AND CONDITIONS LISTED THEREIN, AND WITH THE MODIFICATIONS SO NOTED DURING THE STAFF REPORT. COMMISSIONER DAVENPORT SECONDED THE MOTION.**

Under discussion, Commissioner Tanda asked explanation of exactly what the motion was intended to do. Commissioner Mueller referenced the staff report and modifications detailed in the staff report whereby the changes for the commence construction dates would be agreed. Commissioner Mueller pointed out that the same would be applicable to the development schedule when that matter was addressed.

**THE MOTION PASSED (5-0-0-2), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LYLE.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MC-04-25: COCHRANE – LUPINE, INCLUSIVE OF THE FINDINGS, CONDITIONS, AND MODIFICATIONS SET FORTH. COMMISSIONER DAVENPORT SECONDED THE MOTION. THE MOTION PASSED (5-0-0-2), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LYLE.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-04-08 TILTON-GLENROCK, INCORPORATING LANGUAGE TO ALLOW FOR THE TRADING OF MODERATE RATE UNITS, INCLUSIVE OF THE FINDINGS AND CONDITIONS THERETO. COMMISSIONER DAVENPORT SECONDED THE MOTION.**

Under discussion, Commissioner Tanda asked what this motion would accomplish? Commissioner Mueller explained this is the first of the clarifying resolutions which adds to the development agreement language enabling switching or trading moderate rate units at some time in the future utilizing an in-place mechanism following which the trade process can be administratively completed. Commissioner

## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 8

Tanda asked if this is specific only to the Tilton Glenrock development?

Commissioner Mueller responded, "Yes, this one will enable movement for the non-deed restriction moderate rate allocations. This will put moderate rate units into projects with other moderate rate units." He continued: "It is probable that we will run into a problem planning projects 2 - 3 years ahead of the market. The approved allocations cause the project to need movement between the various projects to put moderate rate units into projects with other moderates."

Commissioner Acevedo added that trading moderates is restricted to trading among similarly priced units and projects.

Discussion ensued regarding a minimum cost factor for the trade basis (units must be similar in size and within \$50,000 of moderate pricing set by the City's formula). Commissioner Tanda expressed concern of the process, saying, "We appear to be taking a moderate unit from Mission Ranch to another development, and trading out housing types so it will not entirely be same all one type. Are you saying we can't trade a \$750,000 unit to a \$1.1 million? That it must be within \$50,000?" Commissioner Mueller clarified that the market rate must be within \$50,000 of moderate rate pricing. Commissioner Acevedo said he thought it would have to be a 'straight-across' trade.

Commissioner Mueller further clarified that if (for example) in Mission Ranch a unit is built on a large lot with the moderate rate restricted to \$750,000, the unit could be double escrowed, the purchaser make \$100,000. However, at the Llagas development, the purchase price might stay within the \$800,000 range, then flipping instantly or even quickly might not be feasible. "We're only talking about 2 - 3 years with non-deed-restrictions on large lots in a 'hot market'," he said.

Hearing further concerns from the Commissioners, Mr. Oliver asked **Chair Koepp-Baker to re-open the public hearing.**

Mr. Oliver addressed the Commissioners, saying, "It appears that you are making this request much too complicated. What the intent is: creating non-restricted moderates in another project so we have the same number of non-restricted and there would be less likelihood of the ability to flip. Think of it this way: for Mission Ranch, we take from Mission Ranch to another development we own and put the non-restricted there. The City will be getting what it wants when that trade takes place."

Commissioner Acevedo interjected an understanding that a developer would only be allowed to trade a maximum of two units per phase.

Mr., Oliver agreed, saying, "Commissioner Mueller's explanation is correct. It would not happen often."

Commissioner Tanda then asked about the potential for – under the City adopted provisions – if, in multiple projects, none had moderately priced homes if moderate non-deed restricted units could be moved there. "Does this provision allow Dividend Homes to move, for example, five units of an 11 unit phase to one with 10 units



## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 9

containing moderate units. What is there in the provisions to prevent the developer from moving to moderate units where he wants?" SP Linder gave details of the restriction and advised that any trade done between projects must meet the City council policy which contains eight points. "Language is put into the development agreements allowing the trades, but all eight criteria still must be met," SP Linder explained. She went on to detail how the trade contract will work.

Commissioner Tanda observed that the higher end developments seem logical for experiencing the same situation: a \$2,000,000 development could still have moderate housing. He noted that he thought it important to examine the need for rethinking the process.

Mr. Oliver said, "That is why the Council recommended moving non-restricted units out of Measure C.

Chair Koepp-Baker reiterated that the eight criteria 'must be met, totally'.

Commissioner Tanda then asked if there was information on units currently obligated?

Units that have been built or parcels still vacant?

Mr. Oliver said, "For Alicante {phase}3a, we have units which have already been built but not sold. We are waiting for completion of these development agreements as they pertain to future units we are still committed to build."

The public hearing was closed.

SP Linder spoke on precise development plan requirements, noting that they have to come before the Planning Commission and must also be approved by the City Council.

**THE MOTION PASSED (5-0-0-2), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LYLE.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-05-01: COCHRANE-MISSION RANCH, INCORPORATING LANGUAGE TO ALLOW FOR THE TRADING OF MODERATE RATE UNITS, INCLUSIVE OF THE FINDINGS AND CONDITIONS WITHIN. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (5-0-0-2), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LYLE.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-05-02: COCHRANE-LUPINE,**

PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 10

INCORPORATING LANGUAGE TO ALLOW FOR THE TRADING OF MODERATE RATE UNITS, INCLUSIVE OF THE FINDINGS AND CONDITIONS THERETO. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (5-0-0-2), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LYLE.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-05-04: E. MAIN-MARRAD, INCORPORATING LANGUAGE TO ALLOW FOR THE TRADING OF MODERATE RATE UNITS, INCLUSIVE OF THE FINDINGS AND CONDITIONS WITHIN. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (5-0-0-2), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LYLE.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-05-07: WRIGHT AVE.-MANANA, INCORPORATING LANGUAGE TO ALLOW FOR THE TRADING OF MODERATE RATE UNITS, INCLUSIVE OF THE FINDINGS AND CONDITIONS THERETO. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (5-0-0-2), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, LYLE.

Having declared this agenda item completed, Chair Koepp-Baker invited Commissioner Lyle to return to the meeting room and be seated on the dais at 7:52 p.m.

**4) DAA 07-02/ DSA-07-18: CORY-HABITAT FOR HUMANITY**

A request to amend the project development agreement and development schedule for the six unit project located on the east side of Cory Ave. approximately 80 ft. south of San Luis Way. The amendments would extend all of the commencement of construction dates by 9 months and the development schedule dates by 9 months.

SP Linder gave the staff report, specifying that the applicant's letter of justification for the request referenced a delay in application processing, due to neighborhood concerns and the necessity of redesigning the project. "We've received word that Habitat has made a commitment to 'go green' and they intend starting with this project, including more community outreach," SP Linder advised. She said the 10-month extension would be reflected as follows:

Site review application (filed)	<del>03-30-08</del>	<del>12-30-08</del>	<del>30/09</del>	<del>1/30/09</del>
Final Map Submittal {map, improvements agreement and bonds}	<del>04-30-08</del>			<del>01-30-09</del>
Building Permit Submittal (to Building Division for plan check)	<del>04-30-08</del>		<del>3/30/09</del>	<del>1/30/09</del>
Obtain Building Permits	<del>05-31-08</del>			<del>03-30-09</del>
Development agreement/commence construction:				
FY 2007-08 (6 units)	<del>06-30-08</del>			<del>04-30-09</del>

**PLANNING COMMISSION MEETING MINUTES**

**MAY 27, 2008**

**PAGE 11**

Chair Koepp-Baker opened and then closed the public hearing as there were none present who indicated a wish to speak to the matter.

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-07-02: CORY – HABITAT FOR HUMANITY FOR APPLICATION MP-01-06: SAN PEDRO-DI CONZA TO ALLOW FOR A 10-MONTH EXTENSION OF TIME FOR COMMENCEMENT OF CONSTRUCTION DATE FOR ALLOCATIONS AWARDED FOR THE FISCAL YEAR 2007-08, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED WITHIN THE RESOLUTION. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MP 91-06: SAN PEDRO-DICONZA. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**5) DAA-06-05/ DSA-06-02: E. MAIN-AHLIN**

A request to amend the project development agreement and development schedule for the an approved 134 unit townhouse project; on a 6.1-acre site located at the southwest corner of E. Main Ave. and Butterfield Blvd. The amendments would extend the commencement of construction date by 12 months and the development schedule dates by 7-18 months.

SP Linder gave the staff report, providing background data on this approved 134 unit townhouse project; located on a 6.1-acre site. Because of the downturn in the real estate market, it appears the lender will only allow the developer to move forward with 14 units at this time; however, the obligation is to produce 50 units by June 30, 2008. SP Linder went on to explain what the developer has done to date – pulling a demolition permit and clearing the site for construction - in regards to readying the site for production. SP Linder also called attention to the amended Exhibit B which had been distributed at this meeting, as she also reiterated the amendment request to the development schedule.

Chair Koepp-Baker open, and then closed the public hearing as there were no persons present to address the matter.

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-06-05: E MAIN-AHLIN FOR APPLICATION MC-05-06: E MAIN-AHLIN TO ALLOW FOR A 12-MONTH EXTENSION OF TIME FOR THE COMMENCEMENT OF CONSTRUCTION DATE FOR ALLOCATIONS AWARDED FOR THE**

**PLANNING COMMISSION MEETING MINUTES**

**MAY 27, 2008**

**PAGE 12**

**FISCAL YEAR 2007-08 AND 2008-09, INCLUDING THE FINDINGS AND CONDITIONS TOGETHER WITH THE FOLLOWING MODIFICATIONS:**

**Commencement of Construction**

**FY 2007-08 (50 units)                      ~~June 30, 2008~~ June 30, 2009**

**FY 2008-09 (43 units)                      ~~June 30, 2009~~ June 30, 2010**

**FY 2009-10 (6 units)                      June 30, 2010**

**COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MC-05-06: E. MAIN-AHLIN, WITH THE FINDINGS AND CONDITIONS SO NOTED AND INCLUSIVE OF THE MODIFICATIONS TO THE DATES AND TIMEFRAMES LISTED IN THE STAFF REPORT (PAGE 2, TABLE 1). COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**6) DAA-05-09B/  
DSA-05-01C:  
DEL MONTE -  
GIOVANNI**

A request to amend the development agreement and development schedule for a six-unit, multi-family residential project referred to as Del Monte Corners. The amendments would extend the commencement of construction date and the development schedule dates by up to 12 months. The project site is approx. one-acre in size and is located on the east side of Del Monte Ave. approx. 80 ft north of Christine Lynn Dr. in a R2(3,500)/RPD zoning district

PM Rowe presented the staff report, advising this was the third extension being requested. Referencing the letter of justification from the applicant, PM Rowe noted that the applicant had been working with Public Works to reach resolution for elimination of a water main that extends through the site from Monterey Road. The applicant, PM Rowe said, was also continuing to seek approval from the Santa Clara Valley Water District for the hydraulic model calculations without determination for resolution of that issue, as well.

SCE Creer was asked to address several issues regarding the work needed for this project:

- leaving the under street (a private installation which will dead end prior to the storage pipes)
- extension of water main on Monterey to old Monterey [forming a loop]
- dropping a link resulting in a much wider grid
- location of cap at end of cul de sac
- strength of water pressure
- water line in DelMonte continues all the way to Llagas Road [access point from DelMonte on both ends, so location of water line is all the way across the frontage]

Commissioner Mueller commented it would be nice to have the street go all the way

**PLANNING COMMISSION MEETING MINUTES**

**MAY 27, 2008**

**PAGE 13**

to Llagas. SCE Creer cited safety and availability of better function of emergency vehicle access (EVA) as reason why this was not considered feasible at this time.

Chair Koepp-Baker opened, and then closed, the public hearing, having noted that no one in the audience had indicated a wish to speak to the matter.

**NOTING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION DAA-05-09B: DEL MONTE – GIOVANNI TO ALLOW A 12-MONTH EXTENSION OF TIME TO COMMENCE CONSTRUCTION ON SIX, FY 2006-07 BUILDING ALLOTMENTS, WITH MODIFICATION TO THE COMMENCE CONSTRUCTION DATES AS FOLLOWS:**

**FY 2006-07 (6 units)      ~~December 30, 2007~~    June 30, 2009**

**COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUDING THE FINDINGS AND CONDITIONS, APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MMC-04-05: DEL MONTE – GIOVANNI TO EXTEND THE DATE TO OBTAIN BUILDING PERMITS FOR SIX, FY 2006-07 ALLOTMENTS AS FOLLOWS:**

**11-30-2007      March 30, 2009**

**COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**7) ELBA-08-05:  
DIANA-EAH**

A request for an exception to loss of building allocations for an 80-unit project to be constructed on a 3.6-acre site located on the north side of E. Dunne Ave., south of Diana Ave. adjacent to the east side of the railroad. The extension request is for a 12-month extension of the FY 2008-09 building allocations.

SP Linder presented the staff report, noting this project did not have an approved development agreement and so therefore must follow a stand processing schedule for each year of allocation. She noted that the standard processing schedule had been sent to the applicant at the time of award of allocations. SP Linder also had distributed the standard processing schedule with the staff report prior to the meeting, along with the March 2008 Quarterly Report showing the project as 'behind schedule' for missing key deadlines. SP Linder advised that the applicant had participated in the RDCS for 10 allocations for 2008-09 and 70 for 2009-10, but had not yet proceeded with any application process and now must build 10 units by end of 2009. SP Linder went on to explain that the 'podium design' chosen for the project was problematic and caused the developer to go 'back to drawing board'. "The developer has told staff that he is actively working on a new design and is close to reaching agreement with a builder but cannot meet the schedule.

## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 14

Consequently, staff has prepared findings for approval of the request if the Commissioners should wish to do so,” SP Linder said. “Staff is willing to recommend approval for the extension request, but the developer has to be willing to commit to the schedule (included in the staff report).” She continued by telling of the process if there becomes a need for reallocation of the allotments.

Chair Koepp-Baker asked if staff thought the report from the applicant represented ‘good faith’? SP Linder advised of the different design and also the apparent work with a new builder; noting, however that the applicant was not present at the meeting.

Commissioner Acevedo ~~commented~~ *queried* if this was ~~not~~ affordable housing. SP Linder responded, “No.”

Commissioners discussed:

- concern that the applicant was not present at the meeting
- staff’s conferring with the applicant regarding the identified dates (SP Linder said limited conversation had occurred)
- applicant had received staff reports in advance of this meeting
- technically the application is valid until June 30, 2009
- need for continuing this matter to the first Planning Commission meeting in June to have the applicant present

Chair Koepp-Baker opened, and then closed, the public hearing as there were no persons present to address the matter.

**COMMISSIONERS MUELLER/TANDA MOTIONED TO CONTINUE THE MATTER OF ELBA-08-05: DIANA-EAH TO THE PLANNING COMMISSION MEETING OF JUNE 10, 2008, AND DIRECTING STAFF TO COMMUNICATE WITH THE APPLICANT THE NEED FOR HIM TO BE PRESENT AT THAT MEETING. THE MOTION PASSED (6-0-0-1), WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

### **8) UP-08-04: BUTTERFIELD- TRAIN FOR LIFE**

A request to allow a commercial recreational facility to include a variety of classes for individualized martial arts and group exercises, to locate in an existing building on the west side of Butterfield Blvd. north of E. Main Ave. at 17680 Butterfield Blvd. #200. The subject site is approximately 4.93 acres and is zoned (ML) Light Industrial.

PM Rowe gave the staff report advising that this would be a commercial recreation use and therefore, findings would be needed in this light industrial zoning district. He went on to address issues of:

- lack of specificity in the Code for a training facility
- classes to be split in differing age groupings
- adequacy of parking {not a problem, he said}
- intent to limit class sizes
- distribution of revised resolution delineating the hours of operation

## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 15

Chair Koepp-Baker opened the public hearing.

Margarita Jimenez, 17680 Butterfield Blvd., told the Commissioners she is one of three Directors for Train for Life; and because there are three directors, someone would be present to be in charge at all times.

Commissioner Mueller asked about class schedules and the hours of operation, and expressing concern that the Directors – in the proposal – may have been too limiting as to the hours of operation. Commissioner Mueller later urged the applicants to not put such constraints on the hours of operation that they would be forced to come back for amendment to the Use Permit if it was decided to extend beyond the initial hours of operation.

Chair Koepp-Baker suggested the option of having the hours set as 7:00 a.m. to 10:00 p.m. Monday through Saturday to provide the latitude for the business to maximize usage.

Commissioner Acevedo noted that the applicants had not asked to have food and beverage sales, noting that generally in a gym energy replenishing refreshments were available for sale. Discussion ensued regarding such sales, with Commissioners urging the applicant to think of this as a possibility for enhancing the business. “They will benefit, the customers will benefit, and the City will benefit,” Commissioner Acevedo declared.

PM Rowe was asked to explain the contract process for vending machines.

Commissioner Acevedo stressed that if the Planning Commission were to allow sales, the Directors would have to meet all requirements of the City, including paying sales tax.

PM Rowe called attention to the updated Resolution distributed at the meeting, and suggested elimination of item #5 from the applicant’s letter of justification (retail sales), while ensuring that the Code would not be exceeding in the issue.

Dan Locsin, 17680 Butterfield Blvd. one of directors, addressed the Commissioners, and responded to a question from Commissioner Acevedo by saying he was satisfied with the restrictions and pleased with the encouragement to provide sales to customers.

Commissioner Mueller clarified that the applicants must

- work with Planning staff to establish the amount of square footage of the building to be used for sales
- if a retail permit is needed, the applicant must obtain it

With no other present indicating a wish to speak to the matter, the public hearing was closed.

**NOTING THE INCLUSION OF THE FINDINGS AND CONDITIONS,  
COMMISSIONER MUELLER OFFERED A RESOLUTION APPROVING A**

**PLANNING COMMISSION MEETING MINUTES**

**MAY 27, 2008**

**PAGE 16**

**CONDITIONAL USE PERMIT TO ALLOW FOR THE OPERATION OF A PRIVATE INDOOR COMMERCIAL FACILITY FOR A TRAINING FACILITY LOCATED AT 17680 BUTTERFIELD BLVD. IN THE LIGHT INDUSTRIAL ZONING DISTRICT WITH THE FOLLOWING MODIFICATIONS:**

- {replacement} **Section 4: Hours of operation permitted: 7:00 a.m. to 10:00 p.m. Monday through Saturday**
- {addition} **Section 6: retail sales will be permitted to the limit available in City Code for the Light Industrial District**

**COMMISSIONER DAVENPORT SECONDED THE MOTION.**

Under discussion, the following was raised:

- nearby senior housing project; it was noted that the senior facility has covered parking which would help diffuse the noise
- the business is located in a U-shaped building with noise deflected through that configuration
- class sizes (generally 10 - 15 students; tournaments could increase attendees to 100)
- validity standards and determination of compliance for the CUP; PM Rowe explained review process and how complaints are routed
- parking

**THE MOTION PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

**9) UP-08-05:  
TENNANT-LANA'S  
DANCE STUDIO**

A request to allow a Dance Studio to go into an existing building on the corner of Tennant Ave. and Vineyard Blvd. at 330 Tennant Ave. The subject site is approximately 1.29 acres and is zoned Planned Unit Development (PUD) with an underlying designation of Industrial.

PM Rowe presented the staff report. PM Rowe gave the location of the building intended for the business, which will be located in a vacant tenant space in an existing industrial building. PM Rowe explained that the building's other occupant is an insurance broker, and the building owner with the two business owners will work out any differences for hours, etc. PM Rowe went on to tell of the required findings for the CUP.

Commissioner Mueller commented it had been a long time since he had been in the building and said he thought it might be necessary to have a wall put in to separate the two businesses. PM Rowe reiterated that the two would work on 'making it work for example new walls or sound insulation'.

Chair Koepp-Baker opened the public hearing.

Lana Wright, 17080 Pine Way and Susan Matlock, 330 Tennant Ave., the property owner stood together at the podium, offering to answer questions from the Commissioners.



## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 17

Responding to the comments from Commissioner Mueller regarding a wall, Ms. Matlock advised there will be demising wall, with sound filtering between the areas.

Chair Koepp-Baker asked for clarification regarding hours of operation. Ms. Wright responded that the hours were as stated in correspondence to the Planning Department, with an occasional extra practice on Friday evening. She explained that the dance studio has a business in Gilroy and frequently practices take place there. Discussion followed regarding the hours of operation, with the applicants agreeing that a modified Operations Schedule would better suit the purposes of the businesses.

Ascertaining that there were no others present to address the matter, Chair Koepp-Baker closed the public hearing.

**COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED WITHIN, APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR THE OPERATION OF A DANCE STUDIO LOCATED AT 330 TENNANT AVE. IN THE LIGHT INDUSTRIAL ZONING WITH THE FOLLOWING MODIFICATION TO SECTION 4:**

**Hours of operation permitted: 12:00 noon to 10:00 p.m. Monday through Saturday.**

**COMMISSIONER DAVENPORT PROVIDED THE SECOND TO THE MOTION, WHICH PASSED (6-0-0-1), BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR.**

### **10) BUILDING ALLOTMENT DISTRIBUTION AND TERM FOR THE NEXT RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSCS) COMPETITION**

PM Rowe report gave the staff report, detailing each of the eight recommendations listed in the distributed reports. PM Rowe advised that Recommendation #5 would need discussion and decision making by the Commissioners.

*As the recommendations were being reviewed by PM Rowe, Commissioner Acevedo announced the potential for conflict of interest on recommendation #8 as he owns a business in the downtown area, and thus he left the Chambers at 8:57 p.m.*

PM Rowe provided an overview of the Competition process and the several factors addressed:

- total building allotment – how the formula was set
- housing needs assessment – requirements for City/procedure for determining categories
- two-year competition (recommended)
- on-going project set-aside
- downtown competition – determinations made previously by City Council to place ballot measure to exempt downtown from RDSCS
- affordable competition – numbers of units to be considered
- micro project competition – reservation of units discussed
- multi-family rental competition – a rental project has applied to amend General Plan
- small project set-aside - reserve numbers needed as interest in competition

## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 18

remains high.

PM Rowe then explained the table showing proposed distributions to the various competition categories, with allotment levels noted. The complex formula for determining the number of units available/recommended for each of the categories was clarified by PM Rowe. An alternate distribution is recommended for a situation where voters would approve an exemption for downtown units. The approved downtown allocations to various projects were specified by PM Rowe. PM Rowe also remunerated the application deadlines and competition dates for the categories as set by the Measures passed previously.

Commissioner Lyle asked if a ballot measure is passed in November, would the currently slated competition units be removed from the 500 set aside for downtown development? CDD Molloy Previsich said, "Assuming the ballot measure passes, any allocations awarded in the upcoming competitions would have to come from the 500. We have understood that to be the intention of the Council." Commissioner Lyle pointed out that upcoming competitions could have applications for more than 55 (downtown) units with the multifamily rental competition still to be considered.

Commissioner Lyle gave examples of other possibilities for number of allotments for the competitions, particularly in the small projects category, with developers having expressed concern about being able to start a project, then not getting other allocations. "We really need clarification of the total units," Commissioner Lyle commented. CDD Molloy Previsich said accommodating this type of desire is tough, as the numbers of available allocations is short in all competition categories.

Commissioners discussed with staff:

- that there was a high probability of continuing requests for extensions to the development schedules and development agreements.
- with all allocations not built, does the City want a competition for new projects?
- there are about 6 projects in the Ongoing Projects situation
- possibility of 2-year competition instead of annual; problem: if a two year, may extend into 3<sup>rd</sup> year and that might make it so 'far out with so many unknowns. If annual competition, with additional allocations awarded extended into the 2<sup>nd</sup> year, financing might become more readily available.

Turning to the formula presented on page 2 of the staff report (total building allotments), Commissioner Lyle led discussion of an alternate method of calculation, delineating the numbers of allocations allotted to the years through 2009-10. Commissioner Lyle explained, "We already know the City is over-allocated. By utilizing 12 years instead of eight to "correct" the overage, I think we can produce numbers that are more reasonable for a longer time, therefore he supports this competition to be for a total of 211 allotments rather than 221."

Commissioner Davenport asked clarification for the City's housing element requirements. Commissioner Mueller led discussion of the necessity of updating the Ordinance about every 10 years. PM Rowe stated that in the past the Ordinance had not addressed quantifiable factors for adjustment.

## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 19

Chair Koepp-Baker opened the public hearing.

Dick Oliver, 385 Woodview Ave., #100, asked about the Ongoing Projects category. Commissioner Mueller said there would likely be some adjustments to the numbers of allocations in that group. "There are several factors to be considered," he said. "For example, this is first time the number has been recommended for reduction (15 to 10) and that will be significant for the City and the developers."

PM Rowe joined the discussion, saying, "This is also the first time ongoing projects may be getting 'automatic units'. The 2004 commitment to ongoing projects is bound by previous actions and obligations set forth. The subcommittee is working on this."

Mr. Oliver expressed concern of results that some of the existing projects would have to 're-compete' for allocations in order to obtain more than 10, reminding that the Mission Ranch development still has 60 units to completion. "Under the 2004 commitment, the Mission Ranch project would be entitled to 30 units; unless we re-compete, we run the risk of falling further behind," Mr. Oliver said.

Commissioner Lyle said, "Mr. Oliver, you have heard the discussion of the possibility of a 1-year completion with the intent to allow for extension allocations into a second year. How would that kind of arrangement suit you?" Mr. Oliver replied, "The market is in such flux now that one-year would not bother us."

Commissioner Lyle commented on the expectation the developer had regarding obtaining the additional 30 allocations.

Commissioner Mueller spoke, regarding competitions whereby all allocations would be awarded in the first year, with more units subsequently. "Do you really need that many more units in 2011?" he asked.

Mr. Oliver reminded that in the last competition, too many allocations had been granted thereby reducing current and future numbers in a competition.

Gary Hansen, 1650 Technology Dr., San Jose, told the Commissioners he had known Mr. Oliver 32 years and could assert he was 'a good man in the community'. Mr. Hansen indicated he was present to speak about multi-family allocations. "This is a difficult area to access and if you don't have a sufficient mass of units, it can be impossible to obtain financing and get a project started. He suggested that the rental category needed higher numbers. Mr. Hansen spoke at length regarding multi-family rental housing and those he had been involved with constructing. "Much of what happens with the numbers depends on how and what type of financing you can get," Mr. Hansen said.

Sylvia Loung, 968 Hanson Ct., reminded that she had made an application for competition, read a "hardship letter" and asked questions about the number of allocations awarded and the numbers of units actually built. Concluding, Mrs. Loung said, "I'm planning to compete and ask that you give the micro project category more units."

With no others present indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Lyle announced, "We have a couple of major issues:

- if we allocate too many projects, the problem continues with over allocations, then we may experience a sudden drop in the number of units which can be built in the later years of RDCS (which currently ends in 2020); we know that 221 is too large of a number
- the other issue we must deal with: a one year competition versus the two-year competition

I would like to see a one year. A lot of my thinking is the uncertainty: (revision follows)

*if we have a fewer available in conditions of an unknown market, the better to wait. Also, we may be looking at changing zoning to increase density and refine housing types, but we must have a mechanism to ensure people that if they get allocations one year, they will continue to get them in successive years The fewer units allocated in an unknown housing market, the better. The City is looking at changing zoning codes for increased densities and also at refining housing types, and this again argues for a one year competition, with second year extension," Commissioner Lyle said.* "If the downtown election passes, that will also need to be accounted for. He went on to explain his recommendation for distributing 211 allotments rather than 221, which includes a reduction for open market allotments.

The Commissioners discussed how to refine the recommended distribution, including the possibility for getting a number of units in the queue with that process. Commissioner Mueller raised the issue of over-allocations, asking: "What do we do about those - spread them out or just ignore them? 2007, 2008, 2009, and 2010 were done under the rules but without recalculation."

Referring to the methodology Commissioner Lyle had explained earlier, PM Rowe said, "If we do as Commissioner Lyle suggests, it does improve accuracy and efficiency." Considerable discussion ensued regarding housing allocations and adjustments of numbers, including concern of the set aside for downtown and the effect of that decision on future competitions.

CDD Molloy Previsich advised that staff's recommendation for a two year competition was an effort to provide more assurance to developers, since in many categories they will need to know that they can count on getting that second year allocation to make a first phase feasible, such as for affordable and rental projects. "With the City Council's priority to downtown, yet not knowing if a ballot measure would pass, a good amount of allotments would be needed downtown, and yet we also want to have affordable, small projects, rental and other competitions, who will want the assurance of a greater number of units," she said.

Commissioner Lyle continued advocating for a 1-year completion.

CDD Molloy Previsich advised that the proposed reduction to on-going projects from 15 to 10 will be beneficial.

## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 21

Commissioner Lyle said, "If we had a 1-year competition, some developers might not compete but if we have a 2-year plus a 1-year extension they might feel 'frozen out' altogether or obligated to compete prematurely."

CDD Molloy Previsich pointed out that there seems to be a strong interest in the competition, with staff aware of over 20 projects, and it is good to bear in mind that we are talking about allocations in the years 2010/11 and 2011/12, by which time the housing market will hopefully have sorted itself out.

Commissioner Tanda said, "The problem is not an underlying lack of demand for housing, but the housing financial market, which will correct itself over time and there will be plenty of demand for housing in Morgan Hill, and developers will want to compete for those allocations."

Commissioner Lyle spoke to having 211 for the 1-year plus an extension into the second year for the types of projects that need that second year assurance (small, rental and affordable), adding, "I think the City Council will be okay with it"

Commissioner Mueller replied, "One year will turn out to be one and a half. The biggest unknown – which we don't know – is how to meet the regional affordable housing fair share numbers."

CDD Molloy Previsich stated, "By providing zoning at various density levels, and providing allocations over a variety of competition categories to accommodate the housing requirements, we should be able to demonstrate how the various zoning districts can accommodate the numbers under the RDCS." Discussion followed of the requirements for meeting numbers of housing needs by income categories.

Chair Koepp-Baker conducted a 'straw vote' to ascertain preference for a 1-or-2-year competition.

Commissioner Davenport 1 year

Commissioner Tanda 2 years (He said the system is way too complicated and it seems 2 years would cut down on the effort and work for staff, the Planning Commission, the City Council and the developers, so long as there is ample time to know this is a 2-year process)

Commissioner Lyle 1 year

Chair Koepp-Baker 1 year

(having gained the majority, the straw vote was abandoned)

Turning to the recommended numbers proposed by staff (221), Commissioners undertook discussion.

Commissioner Mueller explained the need for an initiative sooner than originally thought

Commissioner Tanda argued for the larger number

Commissioner Lyle said the initiative was structured to result in a steady, even increase of housing supply.

Subsequently, Chair Koepp-Baker conducted a 'straw vote' to ascertain preference for the numbers.

**PLANNING COMMISSION MEETING MINUTES**

**MAY 27, 2008**

**PAGE 22**

Commissioner Davenport okay with 211, but not 15 to 10 for ongoing projects

Commissioner Mueller 211

Commissioner Tanda 221

Commissioner Lyle 211

PM Rowe remarked, "211 is more accurate."

Chair Koepp-Baker (given what PM Rowe said will go with) 211

Statements followed:

Commissioner Lyle if 211, where will they come out of? [open market]

Regarding the proposed reduction of allocations for on-going projects:  
Commissioner Lyle: 10 too few except for 2010-11 because everyone is so far behind now

Commissioner Davenport there should be a mechanism for reallocation reflecting the loss of 5 if the 15 to 10 reduction occurs

Commissioner Lyle 10 is too few except for 2010-11 because everyone is so far behind now

CDD Molloy Previsich The presumption is the allocations will be awarded to on-going projects

Commissioner Lyle But if the project falls behind, the Commissioners would not give to that project, but to another

PM Rowe For the on-going to get automatically, the project must be going forward to get the 10 units; if it is carried to 2010-11 and the project has received an extension and has not actually commenced construction, it will not be eligible

Commissioner Lyle If we change from 221 to 211 and go with a 1-year competition, staff can be directed to tell applicants for small, affordable and rental projects in 2010-11 they will be strongly in consideration for a second year allocation, to provide the assurances for larger numbers of units for feasibility of the project

Commissioner Mueller: There are somewhere between 15 - 20 new open market I would rather see that narrowed and deal with language for affordable, multi family rental, and small, especially if we limit the small category to 10 allotments

Commissioner Tanda: make it less complicated; I prefer 2 years and would 'buy' the third year

CDD Molloy Previsich: you might consider 1-year, but include a statement in the application materials that "in accordance with past practice the City will go into a second year for allotments to small, affordable and rental projects in order to support feasibility of those types of projects."

**COMMISSIONER MUELLER OFFERED A MOTION TO ADOPT A RESOLUTION RECOMMENDING HOUSING TYPE DISTRIBUTIONS FOR A ONE-YEAR COMPETITION FOR 221 ALLOTMENTS FOR FY 2010/11, BASING THE RECOMMENDATION ON THE TABLE WITHIN THE STAFF REORT, UTILIZING THE RECOMMENDED NUMBERS IN EACH CATEGORY BUT LOWERING OPEN MARKET FROM 40 TO 35 ALLOTMENTS AND WITH 15 UNITS FOR THE 'SMALL' COMPETITION, AND INCLUDING LANGUAGE TO BE DETERMINED BY STAFF TO ADDRESS GOING INTO SECOND YEAR FOR SMALL, AFFORDABLE AND MULTI FAMILY RENTAL UNIT NUMBERS.**

**PLANNING COMMISSION MEETING MINUTES**

**MAY 27, 2008**

**PAGE 23**

**NOTING THE FINDINGS AND CONDITIONS WITHIN THE RESOLUTION, CHAIR KOEPP-BAKER SECONDED THE MOTION.**

Under discussion, Commissioner Tanda observed that it appeared the small projects were receiving higher priority than the open market category. Commissioner Mueller responded, "Smalls can have up to 15 units. One application could get all of them."

**COMMISSIONER MUELLER CLARIFIED AND AMENDED THE MOTION:**

**221 WITH SMALL PROJECTS AT 10 AND OPEN MARKET AT 40 PLUS LANGUAGE TO ADDRESS CRITICAL MASS FOR SMALL, AFFORDABLE, AND RENTAL CATEGORIES. CHAIR KOEPP-BAKER AGREED WITH THE MODIFICATION AS THE PROVIDER OF THE SECOND.**

**THE MOTION FAILED (2-3-0-2), BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, MUELLER; NOES: DAVENPORT, LYLE, TANDA; ABSTAIN: NONE; ABSENT: ACEVEDO, ESCOBAR.**

Following further discussion,

**COMMISSIONER LYLE OFFERED A MOTION, SECONDED BY DAVENPORT, TO ADOPT A RESOLUTION RECOMMENDING HOUSING TYPE DISTRIBUTIONS FOR A ONE-YEAR COMPETITION FOR 211 ALLOTMENTS FOR FY 2010/11, BASING THE RECOMMENDATION ON THE TABLE WITHIN THE STAFF REPORT, UTILIZING THE RECOMMENDED NUMBERS IN EACH CATEGORY BUT LOWERING OPEN MARKET FROM 40 TO 30 ALLOTMENTS, AND INCLUDING LANGUAGE TO BE DETERMINED BY STAFF TO ADDRESS GOING INTO SECOND YEAR FOR SMALL, AFFORDABLE AND MULTI FAMILY RENTAL UNIT NUMBERS.**

**THE MOTION WAS PASSED (4-1-0-2), BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, LYLE, MUELLER; NOES: TANDA, who wanted to retain the 221 with a 2-year competition; ABSTAIN: NONE; ABSENT: ACEVEDO, ESCOBAR.**

*Commissioner Acevedo returned to the meeting at 10:34 p.m. and resumed his seat on the dais.*

**11) REVIEW OF  
GENERAL PLAN  
LEVEL OF SERVICE  
(LOS) STANDARDS  
FOR SIGNALIZED  
AND  
UNSIGNALIZED  
INTERSECTIONS&  
REVIEW OF POLICY  
AND PROCEDURES  
FOR PREPARATION**

CDD Molloy Previsich presented the staff report, stating that the policy analysis memos were part of the traffic consultant's scope of work associated with creation of a new citywide traffic model and analysis of 2007 existing conditions and projected 2015 and 2030 conditions. The consultants have recommended changes in our current General Plan level of service (LOS) standards for signalized and unsignalized intersections, and also have recommendations for changes to the policy and procedures for preparation of transportation impact analyses (TIAs). "We are proposing the Planning Commission recommend to the City Council that the City initiate a proposed General Plan LOS policy change, generally from D+ to D and no set standard in the downtown. It is not proposed to actually adopt the change of LOS standard at this time, but simply to study it in a CEQA document. The General Plan

## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 24

### OF TRANSPORTATION IMPACT ANALYSES (TIAS)

2030 traffic model analysis will provide the information for a future decision about the policy change.”

Commissioner Lyle asked if the analysis will be looking at current levels and information so that when the analysis is completed, it will be easier to see the ramifications between D and D+? CDD Molloy Previsich responded affirmatively.

Jason Nesdahl of Fehr & Peers was asked to provide a report overview for the two policy memos and recommendations for changes.

Mr. Nesdahl presented a detailed overview and report of the study to date, including explanations of the various tables included in the distributed report. He noted the LOS of nearby providers and municipalities {VTA has E with goal of D; San Jose has D with protected intersections and has a goal more consistency with other areas}

Mr. Nesdahl discussed with the Commissioners:

- D- levels increase wait times
- General Plan requirements for the LOS
- current LOS in Morgan Hill will not change dramatically {only about 3 are D; those are close to D+ }
- some intersections are, during peak hours, LOS D
- objective can be: giving less land and money toward roadways, and trying to support more multimodal circulation
- could be new ‘tradeoff’ policy - Commissioner Lyle: extra gas, extra time, (add) **extra pollution** and **extra auto wear and tear**
- used needs to be included in analysis
- exemption of LOS policy in downtown Monterey>DelMonte and Main>Dunne

Commissioner Tanda asked if, in the proposed General Plan change, the LOS standard would require CEQA evaluation? [if peak hour LOS build out is allowed, the City would still need mitigation or restrict development] CDD Molloy Previsich responded that the Citywide Transportation Analysis being prepared by the consultants will provide the data for the CEQA evaluation, and will indicate what types of roads are needed for the long term. The impact fee consultant will consider the results of the analysis in updating impact fees, and the City will use the information in future traffic studies and future identification of mitigation measures.

Other discussion centered on:

- LOS intersections that would need to mitigate to E
- in Morgan Hill, average intersection waits and the difference between D+, D, and D-
- school traffic

D would be a good standard; it still means the City may have to have developers address mitigations to accommodate at least a portion of the traffic at intersections. However, Mr. Nesdahl warned, some intersections may remain congested during peak times. “This policy will help facilitate differing traffic patterns for foot traffic at the downtown areas,” he said. Commissioner Davenport added that when Butterfield is finished, that must be part of the study. Mr. Nesdahl agreed, and



## PLANNING COMMISSION MEETING MINUTES

MAY 27, 2008

PAGE 25

pointed out that Santa Teresa is important, as well.

Commissioner Davenport stated that he did not see where there are problem areas.

Responding to questions from the Commissioners, CDD Molloy Previsich explained the next step will be to complete other aspects of study; then staff will be in a position to give recommendations in some areas where LOS changes are warranted.

Considerable discussion ensued with ideas included, e.g.,:

- having LOS performance measures listed in General Plan will assist in focusing on achievement
- need to start planning with heightened expectations/asphalt versus livability
- more congestion can be anticipated in peak hour
- Commissioner Tanda improvements need to be looked at in CIP, not wait for General Plan
- LOS policy will be discussed following completion of analysis
- New TIA policy and procedures is proposed for adoption and use right away, although the new “D” standard would not be used until time when approved
- study more than just the queue
- LOS D+ has been consistent for traffic studies done in past years, but measurement methodologies evolve in the industry and traffic studies keep up with those.
- Commissioner Lyle: surprised at total exemption of downtown; argues for standard downtown; CDD Molloy Previsich LOS F downtown acceptable as emphasis is on pedestrians and land use. This issue generated considerable discussion, with staff and consultant saying the effect of the proposed change would be studied by the Downtown Specific Plan traffic study in the EIR.

Following continued questioning and discussion, CDD Molloy Previsich reminded that we are not now making any decision about changing the LOS Policy Standard, but simply defining a change to be analyzed so that the information is available for decision-making in the future. The future decision will be made within the context of the whole work Fehrs and Peers is doing. “They are studying policy and we anticipate recommending an amendment when the study is completed. It will be analyzed in the Cumulative General Plan Amendment Scenario.

Commissioner Mueller pointed out that analysis will reflect:

- General Plan modifications current standard
- General Plan amendment with new standard

Discussion ensued regarding how the current D+ LOS was arrived for the 2030 General Plan.

Commissioner Mueller said, “What we are really doing tonight is saying we are studying the LOS with the possibility of changing. It appears we will be doing fewer traffic studies. The RDA committed to doing traffic studies every five years.”

**COMMISSIONERS MUELLER/TANDA MOTIONED TO RECOMMEND TO THE CITY COUNCIL THAT IT ADOPT THE NEW TIA GUIDELINES, AND INITIATE (add) *AN APPLICATION FOR A GENERAL PLAN***

**PLANNING COMMISSION MEETING MINUTES**

**MAY 27, 2008**

**PAGE 26**

**AMENDMENT TO CHANGE THE LEVEL OF SERVICE STANDARD AS RECOMMENDED BY THE CONSULTANT, WITH A CEQA DOCUMENT PREPARED TO ANALYZE THE PROPOSED CHANGES. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR WAS ABSENT.**

**12) SELECTION OF CHAIR AND VICE-CHAIR** Noting the City's policy on selection of Officers for Boards and Commissions, **COMMISSIONERS MUELLER/TANDA MOTIONED TO NAME COMMISSIONER KOEPP-BAKER AS CHAIR FOR 2008-09 AND COMMISSIONER DAVENPORT TO BE VICE-CHAIR. THE MOTION CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR WAS ABSENT.**

**ANNOUNCEMENTS: NONE**

**COMMISSIONER CONCERNS/ISSUES:**

Commissioner Acevedo asked, "Assuming the City is built out at 2020, do we have numbers saying what population would be when city built out?" CDD Molloy Previsich replied, "The expectation is that the city will grow to the Urban Limit Line. We still have a lot of vacant land in the City and population can be much higher than the current RDCS cap of 48,000. In reality, cities do not really "build out" and stop growing, as redevelopment occurs and land use and transportation practices evolve." CDD Molloy Previsich also reminded that the City accommodates' regional thru traffic'.

**ADJOURNMENT:**

Noting there was not any further business to come before the Commissioners at this meeting, Chair Koepp-Baker adjourned the meeting at 11:50 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**